

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PATRICIA CONWAY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:22-cv-01113-RLW
)	
MERCY HOSPITAL ST. LOUIS,)	
)	
Defendant.)	

DEFENDANT MERCY HOSPITAL ST. LOUIS' ADDITIONAL STATEMENT OF UNCONVERTED MATERIAL FACTS

Pursuant to Federal Rule of Civil Procedure 56, Defendant Mercy Hospital St. Louis ("Mercy" or "Defendant"), through its undersigned counsel, hereby states for its Additional Statement of Uncontroverted Material Facts as follows:

ADDITIONAL STATEMENT OF UNCONTROVERTED FACTS

1. Mercy Health, and its wholly-owned subsidiaries, are non-profit organizations, owned and operated by Mercy Health Ministries, a public juridic personality of the Roman Catholic Church formed under the Catholic Church's canonical statutes. *Exhibit B*, Declaration of Jill McCart (¶ 4, Exhibits JM-1, JM-2, JM-3, and JM-4).¹

2. Mercy Health is the civil law entity formed by Mercy Health Ministries to carry out Mercy Health Ministries' Catholic mission and ministry through its healthcare practice. *Exhibit B*, Declaration of Jill McCart (¶ 5, Exhibits JM-1, JM-3, JM-4).

3. While employees do not need to be Catholic or practice Catholicism outside of work, all Mercy employees are required to support, and perform their job duties in accordance

¹ Defendant's "Exhibit A" (Declaration of Kevin Minder) was submitted with its Statement of Uncontroverted Material Facts as Doc. 17.

with, Mercy's Catholic mission and ministry while working for Mercy and/or its wholly-owned subsidiaries. *Exhibit B*, Declaration of Jill McCart, ¶ 6.

4. Plaintiff, Patricia Conway, was employed by MHM Support Services, Inc., a wholly-owned non-profit subsidiary of Mercy Health, and worked at Mercy Hospital St. Louis, a dba of Mercy Hospitals East Communities, which is a wholly-owned non-profit subsidiary of Mercy Health East Communities and, ultimately, Mercy Health. *Exhibit B*, Declaration of Jill McCart, ¶ 7.

5. Mercy Health, through its healthcare facilities including Mercy Hospital St. Louis, has provided and continues to provide millions of dollars' worth of healthcare services at no cost each year to numerous patients, particularly those who cannot afford the costs of healthcare services. *Exhibit B*, Declaration of Jill McCart (¶ 8).

6. Mercy Health and Mercy Hospitals East Communities' IRS Form 990 is the annual information tax return that is filed by them as tax-exempt organizations. *Exhibit B*, Declaration of Jill McCart (¶ 9; Exhibits JM-5, JM-6).

7. The IRS Forms 990 generally provide information on the organization's finances, programs and governance related to healthcare services as a non-profit organization. These tax return documents contain information on the activities of each organization, including Schedule H in *Exhibit JM-6*, which includes information on financial assistance and certain other community benefits. *Exhibit B*, Declaration of Jill McCart (¶ 9, Exhibit JM-6).

8. Mercy Health and Mercy Hospitals East Communities also file a IRS Forms 990-T, Exempt Organization Business Income Tax Return. The IRS Form 990-T is generally used by an exempt organization to report unrelated business income and report its tax liability on this

unrelated income and are submitted annually. *Exhibit B*, Declaration of Jill McCart (§ 10, Exhibits JM-7, Exhibit JM-8).

9. Mercy Health's IRS Forms 990-T report unrelated business income activity for a portion of its investment in partnership investment funds. This miscellaneous income does not affect Mercy Health's non-profit, tax-exempt or religious statuses. *Exhibit B*, Declaration of Jill McCart (§ 11, Exhibit JM-7).

10. Mercy Hospitals East Communities IRS Forms 990-T report unrelated business income activity for a portion of its medical labs, pharmacy and miscellaneous services. This miscellaneous income does not affect Mercy Hospital East Communities' non-profit, tax-exempt or religious statuses. *Exhibit B*, Declaration of Jill McCart (§ 12, Exhibit JM-8).

11. During the COVID-19 pandemic and national emergency, Mercy Hospital St. Louis and other Mercy subsidiaries and entities instituted a COVID-19 Vaccination Policy, which required all co-workers to receive a COVID-19 vaccine unless they requested and were approved for a religious or medical exemption from this mandatory vaccination policy. *Exhibit B*, Declaration of Jill McCart (§ 13, Exhibit JM-9).

Respectfully submitted,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

/s/ Thomas R. Chibnall

James M. Paul, MO #44232
Thomas R. Chibnall, MO #67994
7700 Bonhomme Avenue, Suite 650
St. Louis, MO 63105
Telephone: 314-802-3935
Facsimile: 314-802-3936
thomas.chibnall@ogletree.com

Attorneys for Defendant Mercy Hospital
St. Louis

CERTIFICATE OF SERVICE

The undersigned certifies that on the 27th day of April, 2023, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Ott Law Firm
Joseph A. Ott
Mark E. Blankenship, Jr.
3544 Oxford Blvd.
Maplewood, MO 63143
Tel: (314) 293-3756
Fax: (314) 689-0080
joe@ott.law
mark@ott.law

Attorneys for Plaintiff

/s/ Thomas R. Chibnall

Attorneys for Defendant Mercy Hospital St. Louis